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TOWNSHIP OF EAST AMWELL

MUNICIPAL OFFICES
1070 U.S. ROUTE 202/5/
RINGOES, NEW JERSEY 08551-1051
908-782-8536

December 5, 1997

Mr. William Kennard, Chairman Designate
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Re: FCC Ex Parte Letter for Cases WT 97-192/~~197~~ MM Docket 97-182, and DA 96-2140

Dear Mr. Kennard:

The East Amwell Zoning Board of Adjustment requests that you terminate all action in the above cases. If enacted these cases will usurp local zoning power for all cellular telephone and broadcast towers and violate the intent of Congress, the Constitution and principles of federalism. If enacted, these cases will make the FCC a "federal zoning commission"--exercising powers which have been uniquely reserved to local governments.

Congress and the courts have long recognized that zoning is a matter of peculiarly local concern. The FCC has neither the zoning knowledge or expertise, if not accessible to most citizens, and cannot respond to local problems and situations that are unique in every municipality across the country.

For these reasons, among others, Congress has expressly reserved local zoning authority over cellular towers in the 1996 Act. Now the FCC is attempting to usurp this jurisdiction by issuing rules which improperly infringe on local zoning authority.

The FCC's efforts to assume jurisdiction over any local zoning matter where RF radiation is mentioned is not only unacceptable, but can easily become ridiculous. Residents have an absolute right in this Township and State to speak on any topic they wish at public meetings and public hearings. Some citizens may be concerned about radiation from cellular towers. Local government encourages input from its citizens. This is part of what local government is all about.

The FCC's attempt to use all statements about radiation as a means to seize zoning authority and reverse local decisions violates basic principles of federalism, freedom of speech and rights of our

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citizens to petition their government.


This is particularly true if a municipality expressly says it is not considering such statements and the decision is completely valid on other grounds, such as the impact of the tower on property values, aesthetics, inappropriateness to land features or resources, availability of other less obtrusive locations for antennas, etc.

As with judicial determinations of local zoning decisions, the FCC should not be able to "second guess" the stated reasons in a municipality's decision. The FCC, like courts, should be bound by the stated reasons given by a municipality.

Similarly, please terminate the FCC's proposed rulemaking which preempts local zoning of broadcast towers. These towers can be over 2000 feet high. In our rural agricultural community it is astonishing that you would propose that the impact of these towers on property values, the environment, aesthetics, quality of life, etc. cannot even be considered. Safety considerations should be the first priority, particularly in a highly populated state like New Jersey.

Setting artificial time limits for municipalities to act on environmental, zoning and building permit approvals for such towers serves no useful purpose and is not a reasonable restriction on local authority. Clearly, the proposed actions violate the Communications Act and the United States Constitution. Please terminate all the above proceedings without taking the actions proposed.

Very truly yours,



Connie O. Hughes, Chairperson
Zoning Board of Adjustment

COH:jm:sp

c.c.

[Redacted] Acting Secretary, FCC

Shaun A. Maher, Esq., Policy & Rules Branch, Commercial Wireless Div., FCC

Barrie Tabin, Legislative Counsel, National League of Cities

Eileen Huggard, Exec. Dir., National Assoc. of Telecommunications Officers & Advisory

Robert Fogel, Associate Legislative Dir., National Association of Counties

Kevin McCarty, Assistant Exec. Dir., U.S. Conference of Mayors

Cheryl Maynard, Government Affairs Coordinator, American Planning Association

Corresp:localzon.fcc